

Roberto Marroquin
July 21, 2016

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

| | |
|--------------------|----------------------|
| ROBERTO MARROQUIN, | § |
| | § |
| Plaintiff | § |
| | § CIVIL ACTION |
| VS. | § |
| | § NO.: 1:15-CV-00718 |
| | § |
| FLINTCO, INC., | § |
| | § |
| Defendant | § |

ORAL AND VIDEOTAPED DEPOSITION OF

ROBERTO MARROQUIN
(Through an Interpreter)

JULY 21, 2016

ORAL AND VIDEOTAPED DEPOSITION OF ROBERTO
MARROQUIN, produced as a witness at the instance of the
Defendant, and duly sworn, was taken in the above-styled
and -numbered cause on the 21st of July, 2016, from
10:16 a.m. to 3:23 p.m., before Pamela Nichols, CSR in
and for the State of Texas, reported by machine
shorthand, at the law offices of Komie and Morrow, 7703
North Lamar Boulevard, Suite 410, Austin, Texas,
pursuant to the Federal Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

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A P P E A R A N C E S

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1 Q. And does that -- did that period of not
2 working start with the accident we're here about today?

3 A. Yes.

4 Q. So your employer before Macaroni could have
5 Neihi Glass?

6 A. Yes, Neihi Glass.

7 Q. And you only worked for Neihi Glass for four
8 days?

9 A. Yes.

10 Q. And before Neihi Glass who did you work with?

11 A. For a company is that called New View.

12 Q. And where is that?

13 A. From Florida.

14 Q. And did you do any work for New View in Texas?

15 A. Yes. We were here on 7th Street. We -- we
16 installed the glass in a building there.

17 Q. What -- what are the dates you worked for New
18 View?

19 A. From 2006 to 2008.

20 Q. Were you out of work from 2008 to 2013?

21 A. I was working for another company called Cesar
22 Glass out of North Carolina.

23 Q. And where did they have you working at?

24 A. Here. They came here to make a building, to
25 raise it, to build a building.

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1 Q. And did you work for them from 2008 to 2013 or
2 was it just one job?

3 A. Just for one building. It was about six
4 months.

5 Q. And so worked for Neihi Glass, then Cesar
6 Glass, and then New View. Who did you work for before
7 New View?

8 A. Just for New View.

9 Q. You were in El Salvador before you worked for
10 New View?

11 A. Yes.

12 Q. Did you do any glass installation in El
13 Salvador?

14 A. No.

15 Q. But you've been working as a glass installer
16 since 2006?

17 A. Yes.

18 Q. At New View was it new construction or was it
19 remodeling jobs?

20 A. New building construction.

21 Q. And were the buildings higher than two or
22 three stories?

23 A. Yes. They were 18 to 20 stories.

24 Q. And the buildings that you installed glass on
25 for New View, did they use material hoists?

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1 A. Yes.

2 Q. Is it easier if I call it elevator?

3 A. Yes, elevators.

4 Q. And when I say elevator, I'm talking about the
5 ones on the outside of buildings under construction or
6 remodel.

7 A. Yes.

8 Q. With Cesar Glass, did you work on new
9 construction or remodels or both?

10 A. New construction.

11 Q. And on buildings that were higher than two or
12 three stories?

13 A. Yes. It was 24 stories.

14 Q. And that construction also involved elevators
15 on the outside of the buildings?

16 A. Yes.

17 Q. And then with Neihi Glass, y'all were doing a
18 remodel at a dorm at The University of Texas, right?

19 A. Yes, at UT.

20 Q. And then with Macaroni that you work with now,
21 is that new construction or remodel or both?

22 A. New construction.

23 Q. And does that also involve buildings with
24 elevators on the outside?

25 A. Yes.

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1 Q. And so before your accident in 2013, you had
2 seen many buildings being built with these elevators on
3 the outside, right?

4 A. Yes.

5 Q. You understand that those elevators have
6 floors that you can't see below, right?

7 A. Yes.

8 Q. And these elevators don't have alarm bells on
9 them when they're moving up or down, do they?

10 A. No, they don't.

11 Q. All right. Let's talk a little bit about your
12 work at New View. Okay?

13 A. Okay.

14 Q. Were you given any training at that job?

15 A. Yeah, they do give you some at the
16 orientation.

17 Q. And so you went through an orientation with
18 New View?

19 A. Yes.

20 Q. And would you also have to go to orientation
21 for the construction sites you went to with New View?

22 A. Yes. Yes, local at the site that gives an
23 orientation.

24 Q. And did you also have safety meetings with
25 your bosses at New View?

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1 A. Yes.

2 Q. And did you do more than one building with New
3 View?

4 A. Yes.

5 Q. And on each building did you have to go to an
6 orientation for that project?

7 A. Yes.

8 Q. And after you completed these orientations on
9 these projects, not the one for New View but the
10 projects, did you receive a hard hat to be on-site?

11 A. We had -- we had our own hard hats.

12 Q. Did you ever receive any stickers or something
13 to put on your hard hats to show that you went through
14 orientation?

15 A. Yes.

16 Q. And did you do that for each job that you went
17 on for New View?

18 A. Yes.

19 Q. And that would include the job you did at --
20 on 7th Street here in Austin, right?

21 A. Yes.

22 Q. How did you learn how to install glass?

23 A. My manager was from El Salvador and he's the
24 one who brought me into the company. He was the second
25 in command at New View.

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1 Q. And he taught you how to do the caulking and
2 how to stick in the window panes and things like that?

3 A. Yes. That's how I learned it.

4 Q. And were you also trained at New View as to
5 safety equipment, such as lifelines and things like that?

6 A. At -- at the sites, the construction
7 companies, they hold their safety meetings on Mondays,
8 and there they gave you the training, and they give you
9 the harness and the cable to put on and the decal to put
10 on your hard hat.

11 Q. And did your bosses at New View tell you to go
12 to these safety meetings with the contractors?

13 A. Yes.

14 Q. When you were working at New View did you ever
15 install windows where you would have been in the tracks
16 of an elevator?

17 A. No. Only here at UT.

18 Q. That was the first time you did it?

19 A. That wasn't actually on the rails of an
20 elevator, it was on a -- at a window.

21 Q. And let me ask it this way: In installing the
22 windows, you have to be on the outside of the building,
23 right?

24 A. Some of them are installed from the outside
25 in, and others are installed from the inside out.

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1 elevator going to come down and they said no.

2 Q. And we'll get to that in a second.

3 Had you ever been trained by New View or
4 Cesar Glass on installing windows from the inside out?

5 A. We -- you know, my understanding is that glass
6 is always installed from the inside out. And, you know,
7 they -- they hadn't given me any specific instruction,
8 but we were told to just install the glass from the
9 inside out.

10 Q. In any of the safety meetings that you went to
11 when you were with New View, did you -- were any of
12 those meetings about elevators on the outside of
13 buildings?

14 A. They did.

15 Q. And what would they tell you about the
16 elevators at these meetings?

17 A. On new buildings, you know, there -- there's
18 a -- a doorway on the elevators and that's not
19 installed. That -- that -- you don't work on that.

20 Q. On the new buildings would you use these
21 elevators to get to the floors where you are installing
22 glass?

23 A. On -- yes, but on -- on new buildings, there's
24 a door to the elevator and it takes you up to the floor,
25 and somebody inside the elevator closes it after you

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1 to go through your other jobs first. Okay?

2 A. Okay. Yes.

3 Q. When you did your training at New View, did
4 you have to sign a paper saying you went to the
5 meetings?

6 A. Yes, you do -- you did sign.

7 Q. And when you were hired at New View, were you
8 hired under the name of Roberto Marroquin?

9 A. Roberto Carlos Marroquin.

10 Q. No Garcia?

11 A. Yeah, with Garcia.

12 Q. So when you filled out your paperwork, it
13 would include Garcia on there?

14 A. Yes, you do fill in the Garcia.

15 Q. For New View did you do anything other than
16 glass installation?

17 A. Just glass installing.

18 Q. And you've told us about orientation before
19 the project and the Monday meeting by the construction
20 company, but did New View have its own safety meetings
21 each week?

22 A. The -- the -- the safety meeting was in
23 general, for everyone.

24 Q. So all the subcontractors would show up?

25 A. Yes, everyone.

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1 caulking on the bottom, and that's shorter. It would
2 take maybe six, seven minutes, maybe ten. And all I had
3 to do at the moment that this happened was just the --
4 the caulking on the bottom when the elevator had gone
5 by. So I just had to do the bottom of it.

6 Q. About how many buildings did you work on when
7 you worked with New View?

8 A. About five.

9 Q. And Cesar Glass was only one building?

10 A. Yes, one.

11 Q. And at Cesar Glass, did you have to go through
12 an orientation program with them?

13 A. Yes. They give it to you when they hired you.

14 Q. And part of that orientation is job site
15 safety, right?

16 A. Yes.

17 Q. And while you were on that one project for
18 Cesar Glass, did you also have the safety meetings at
19 the site?

20 A. Yes.

21 Q. And did you also have to go to a project
22 orientation to get a sticker for your helmet?

23 A. Yes.

24 Q. And for the five buildings you did for New
25 View, for every one of those -- strike that. I'm sorry.

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1 For the five building you did for New
2 View, did you go to a construction orientation to get a
3 sticker for your helmet?

4 A. Yes.

5 Q. And for all the buildings at New View and the
6 one project at Cesar Glass, you were told to go to those
7 meetings to get your sticker, by your bosses, right?

8 A. Yes.

9 Q. In other words, nobody from the construction
10 companies for those buildings spoke to you and made you
11 go to a meeting, right?

12 A. The construction companies would tell the boss
13 of the glass installer, "Bring your people to the safety
14 meeting," and then we'd go.

15 Q. And you personally never spoke with the
16 construction companies. You were only told to go to
17 these meetings by your bosses for both New View and
18 Cesar Glass, right?

19 A. Yes. You always had to go there prior to
20 starting at a job site.

21 Q. And I'm sorry for asking these questions over
22 and over. I just want to make sure we're clear. Okay?

23 A. Okay.

24 Q. For the five buildings at New View and the one
25 building for Cesar Glass, the construction companies

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1 only spoke to your bosses. They never spoke to you
2 about these meetings. Right?

3 A. No, just with them.

4 Q. And how many buildings have you done with
5 Macaroni?

6 A. One here at 7th and Rio Grande, and another
7 one in Houston.

8 Q. And how much are you getting paid by Macaroni?

9 A. \$12.

10 Q. Per hour?

11 A. Yes.

12 Q. At your job with New View, your bosses would
13 tell you how to do your work, not the contract- -- or
14 construction company, right?

15 A. No, it was our supervisor or foreman.

16 Q. And for the one building you did for Cesar
17 Glass, it was your supervisors who would tell you how to
18 do your job, not the construction company, right?

19 A. Yes, him, my supervisor.

20 Q. All right. Let's talk about your short
21 employment with Neihi Glass. Okay?

22 How did you find the job there?

23 A. I didn't have work and a friend of mine told
24 me to go there, that they were asking for people.

25 Q. About how long before you started on the UT

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1 project did you go to Neihi to get a job?

2 A. Just that once.

3 Q. And how many days before --

4 A. I'd been working for them for about two weeks.

5 The first week was one thing, and then in the second
6 week they sent me to the UT project, and the first day I
7 got there, that's when the accident happened.

8 Q. And so you worked on another project with
9 Neihi before the UT project?

10 A. Yes. It was a remodeling job.

11 Q. Do you remember where that was?

12 A. Here in Austin.

13 Q. Do you know what building it was?

14 A. They're over on 360.

15 Q. All right. How many days before you started
16 working for Neihi did you go apply for a job with them?

17 A. I'd gone there one -- on one occasion. It was
18 the Monday before. And then they called me to start the
19 following Monday at that remodelling job.

20 Q. And when you first went to Neihi Glass, did
21 you go to their office or did you call them?

22 A. I went to their office.

23 Q. And who did you speak with there?

24 A. With the owner.

25 Q. Randy?

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1 Q. Before you started working on the first
2 project with Neihi Glass, did you give them any
3 additional documents?

4 A. No.

5 Q. And were you getting paid \$10 an hour at
6 Neihi?

7 A. \$10.

8 Q. Were you getting paid by check?

9 A. In check, yeah. In a check.

10 Q. So you started the first project on 360 on a
11 Monday, correct?

12 A. Yes.

13 Q. Did you receive any training or orientation
14 from Neihi Glass prior to that Monday when you started
15 on Loop 360?

16 A. No.

17 Q. When you started at the job, first project for
18 Neihi -- strike that.

19 When you started at the first project for
20 Neihi that Monday, did you go to any orientation at the
21 job site?

22 A. No.

23 Q. Do you know who the construction company for
24 that job was?

25 A. No. It was a remodeling job.

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1 Q. And so you didn't get a sticker for your hard
2 hat, did you?

3 A. No.

4 Q. And how quickly did y'all -- or strike that.

5 How many days were you working on that
6 first project for Neihi?

7 A. During that week we were at multiple sites
8 along 360 installing glass for Neihi. We were not in a
9 single site.

10 Q. Was it multiple sites that were part of one
11 project or was it different projects?

12 A. They were different projects and buildings.

13 Q. And did you ever get a sticker for your hard
14 hat at any of those buildings?

15 A. No.

16 Q. And when you worked for Neihi you had a
17 foreman on each job, right?

18 A. No, just Randy.

19 Q. You remember a man named Marc Davis?

20 A. Yeah, he was with me.

21 Q. And was he a supervisor or did he do what you
22 do?

23 A. He was working with me. We were both working
24 on the same window.

25 Q. Did you work with Marc on any of those

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1 you speak to him in Spanish?

2 A. No, he didn't speak Spanish.

3 Q. So before I asked -- or before starting to
4 work for Neihi Glass, Randy never asked about your
5 previous work experience, did he?

6 A. They, Emilio and Alberto, you know, Randy had
7 said that he needed people that -- for glass installing,
8 and they said that they knew of this guy that they had
9 worked with, which was me. And then they called me and
10 said that the company they were working at needed
11 people, so I went there.

12 Q. And when you were hired by Neihi Glass, Randy
13 never asked you what kind of training you received, did
14 he?

15 A. No.

16 Q. And Neihi Glass provided you no training
17 before putting you to work, did they?

18 A. No.

19 Q. All right. Let's talk about working at UT.
20 Okay?

21 A. Okay.

22 Q. That was a 13-story building, right?

23 A. Yes.

24 Q. And on the day of your accident you were
25 working on the 12th floor, right?

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1 A. Yes.

2 Q. And did you say you started -- strike that.

3 You were on that job for only one day,
4 right?

5 A. Yes.

6 Q. Who was your supervisor at Neihi Glass on the
7 day you started at UT?

8 A. Supposedly, they were saying it was Marc,
9 but -- yes, Marc.

10 Q. Do you disagree with that?

11 A. Yes. Yes, I agree.

12 Q. So I don't -- I want to make sure the record's
13 clear, so I'm sorry to ask this again. Was Marc Davis
14 your foreman on the day you were injured?

15 A. Yeah. They were saying that he was the man in
16 charge there at the -- at the project.

17 Q. And when you say "they were saying," are you
18 saying Randy was saying that?

19 A. The other guys, there were other people
20 from -- from the company working there and they were --
21 and they all said that the man in charge at that job
22 site for them was Marc.

23 Q. And do you remember who else from Neihi was at
24 the project site that day?

25 A. It was Marc and myself only.

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1 to a different site, and then on Tuesday when I got to
2 the office I was told, "You're going to go with Marc to
3 UT."

4 Q. And did you drive with Marc to UT?

5 A. Yes.

6 Q. And do you know if Marc had been working on
7 that site before July 30th?

8 THE INTERPRETER: The UT site, right,
9 Counsel?

10 MR. CROWLEY: Yes, I'm sorry.

11 A. Yes, they'd been working there.

12 Q. (By Mr. Crowley) Do you know how long they
13 had been working on that project before you went there?

14 A. No, I don't recall that.

15 Q. Did Marc tell you -- Well, strike that.

16 Did you have your own hard hat?

17 A. Yes.

18 Q. Did Marc tell you to go to the construction
19 company's orientation before you started work on
20 July 30th?

21 A. No.

22 Q. In fact, no one at Neihi Glass told you to go
23 to Flintco's orientation before you started work at UT,
24 correct?

25 A. No, no one did.

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1 Q. And you did not speak to anyone from Flintco
2 before going up to the 12th floor that day, did you?

3 A. No. No, I didn't.

4 Q. Do you know anyone who works -- Well, strike
5 that. Before you were injured did you know anyone who
6 worked for Flintco?

7 A. I mean, enough to -- to -- to -- to talk to
8 someone? No. I mean, I -- there were -- there was some
9 people who said that they were from Flintco that -- but
10 I -- I didn't know them enough to talk to them.

11 Q. And before you went up to the 12th floor to
12 start working on July 30th, you never received a sticker
13 for your hard hat, did you?

14 A. No.

15 Q. And no one from Neihi Glass told you that you
16 needed to get a sticker before starting to work that
17 day, did they?

18 A. No.

19 Q. Were you going -- were you going to be on the
20 job at UT for more than one day?

21 A. Supposedly, yes. But that day the accident
22 happened. I didn't work anymore.

23 Q. In other words, if the accident did not
24 happen, you were going to be there more than just that
25 day, correct?

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1 A. Yes, supposedly that, yes, because there was
2 lots of work there.

3 Q. That was a remodel of a student dorm at UT,
4 right?

5 A. Correct.

6 Q. And were y'all going to be replacing windows
7 for the top floors of that dorm?

8 A. Yes.

9 Q. Before you started work on July 30th at UT,
10 were you given any documents from Flintco?

11 A. No.

12 Q. And you did not go to any orientation --
13 Well, strike that.

14 Did you go to any safety meeting on the
15 morning of July 30th, 2013?

16 A. No.

17 Q. Did you and Marc do any safety meeting just
18 for Neihi Glass?

19 A. No.

20 Q. And you had all of your protective equipment
21 with you, correct?

22 A. Yes, my harness and my cable.

23 Q. And a hard hat, right?

24 A. Yeah, and goggles.

25 Q. And shoes?

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1 A. Exactly right. Correct.

2 Q. And then once the frame's installed, the
3 frame -- you then put the window pane against the frame
4 so that the -- the glass doesn't fall out the other
5 side, right?

6 A. That's correct, yes.

7 Q. Okay. And had you -- and at the time of the
8 accident you were caulking the bottom -- or you were
9 going to caulk the bottom of a frame that Cody had
10 installed earlier that day, correct?

11 A. Yes, I was -- at the moment of the accident, I
12 was just caulking the bottom part of it, you know,
13 the -- the lower part of the -- of the -- of the frame
14 against the -- the wall.

15 Q. And did Cody tell you -- was Cody the one to
16 tell you to caulk that frame to the wall?

17 A. Marc asked me, "Are you able to do the
18 caulking?" and I said, "Yes." And Marc then said, you
19 know, when you finish the caulking, both the inside and
20 the outside, then we were going to install -- install
21 the glass panes.

22 Q. And the frames, do you know how tall they
23 were?

24 A. It was -- I don't remember exactly, but each
25 pane of the four that went in there was about 40 inches

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1 that they worked for Flintco?

2 A. They were from Flintco.

3 Q. Okay. Both of them?

4 A. Yes.

5 Q. How do you know that?

6 A. Some of the guys that arrived said, Those two
7 guys in the elevator, they're from Flintco.

8 Q. And who told you that?

9 A. Some of the guys that came at the -- to see
10 after the accident had happened.

11 Q. So you personally don't know whether they
12 worked for Flintco, it's just what other people told
13 you, right?

14 A. That's right.

15 Q. So before that conversation that they -- when
16 they told you they were going to the 13th floor, you did
17 not speak with anybody from Flintco, correct?

18 MR. CROWLEY: Do you want me to rephrase?

19 A. No. No, with no one.

20 Q. (By Mr. Crowley) All right. Were you outside
21 of the building when the outside elevator was coming up?

22 A. When the elevator was coming up, I was on the
23 outside of it.

24 Q. And where you were working outside of the
25 building would have put you in the path of that

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1 elevator, right?

2 A. Yes. Yes, that -- that window was right there.

3 Q. And prior to going outside the building to
4 work on that window, did you tell Marc to make sure that
5 nobody comes up in the elevator?

6 A. No. Marc was not there.

7 Q. Were you concerned at all working outside the
8 building in the path of an elevator car?

9 A. I was not concerned because, I mean, I -- I --
10 I was looking at the elevator down at the bottom and, I
11 mean, when the elevator started moving, I just stepped
12 inside out of the way and -- as they came up.

13 Q. And you were instructed by -- was it Cody or
14 Marc to go outside the building to caulk that frame?

15 A. The -- the one who told me to caulk was Marc,
16 because they needed a caulker and no one else there knew
17 how to caulk.

18 Q. Nobody from Flintco told you to go outside
19 that building to caulk that frame, did they?

20 A. No, no one.

21 Q. Nobody told you how -- nobody from -- strike
22 that. I'm sorry.

23 Nobody from Flintco told you how to caulk
24 that window frame, did they?

25 A. No. I had already done it in the past without

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1 problems.

2 Q. And nobody from Flintco told you what tools or
3 caulk to use for that frame, did they?

4 A. No, no one did. I had my own tools.

5 Q. And Flintco could have told you to either
6 start or stop the work, right?

7 A. Yes, they could have told me.

8 Q. But they didn't tell you anything else, did
9 they?

10 A. No-no. No, they didn't.

11 Q. How did you know the elevator was coming up
12 before your accident?

13 A. The elevator had come up only about as far
14 as about I think the 10th floor, and, you know, I -- and
15 I had been working on the outside. And when it started
16 coming up closer, I stepped inside to get out of its
17 way. And I told the guys that were in it that, you
18 know, to -- I asked them -- I told them I had to finish
19 the caulking, and they said they were going to be up
20 above me. So I said, "Good, because I need to finish
21 this -- the caulking of this -- of this frame." And it
22 was my bad luck they came down.

23 Q. So when you went outside to caulk that frame,
24 the elevator was not on the ground but it was around the
25 10th floor; is that right?

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1 A. It was all the way down. When I had just a
2 little bit left to finish up, it was -- the elevator was
3 coming up. I stepped inside and I asked them if they
4 were going to come down. They said no. And I told
5 them, "Because I'm going -- I'm going to finish caulking
6 because the boss wants us to install the panes." And
7 they said, "Go ahead and finish. We're not going to
8 come down in -- in -- in -- you know, soon." So I came
9 outside to finish when the elevator came down on my
10 back.

11 Q. I'm going to go back to a question earlier I
12 asked you about Flintco and your work. Okay?

13 A. Okay.

14 Q. Flintco didn't control how you did your job
15 other than being able to tell you to start or stop,
16 correct?

17 A. Yes.

18 Q. So when you went out to begin caulking that
19 frame, the elevator was on the ground floor, correct?

20 A. Downstairs, yeah. Down on the ground floor.

21 Q. And before the elevator started coming up, did
22 anyone warn you that -- that, hey, we're coming up to --
23 to your floor?

24 A. No.

25 Q. So the only reason -- strike that.

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1 Q. Would you say that you have a good memory?

2 A. Yes. Marc Davis arrived after the accident
3 had happened.

4 Q. When the elevator was coming up, were you able
5 to see the men inside the elevator?

6 A. No, because you can't see from above it,
7 because you can only see into the elevator from the
8 sides.

9 Q. And that's the same thing. You can't see
10 above it and you can't see below it, correct?

11 A. You can only see inside the elevator to --
12 from the sides.

13 Q. The people who spoke to you on the elevator
14 telling you that they were going to go up to the next
15 floor, do you remember their names?

16 A. No, I never knew their names. I -- I just saw
17 them.

18 Q. And you're positive they didn't speak to Marc
19 Davis?

20 A. Marc Davis was not there. It was just me.

21 Q. Do you know how long it was between when the
22 elevator went up to 13th floor and came back down and
23 caused this accident?

24 A. Approximately 10 or 15 minutes.

25 Q. Didn't you say it only would take six to seven

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1 previously. I mean, I hadn't seen it go up previously,
2 up to the top floor. As I said, I had been working.
3 I -- I saw them as they were coming up.

4 Q. And I'm talking about right before the
5 elevator struck you, when you went out to finish
6 caulking that frame, you knew that the elevator was on
7 the floor above you, correct?

8 A. Yes. Yeah, but I -- I -- I had asked them if
9 they were going to come back down and they said no.

10 MR. CROWLEY: I'm going to object to
11 everything after "yes" as nonresponsive.

12 Q. (By Mr. Crowley) And you knew that you were
13 working on the 12th floor of a 13-story building,
14 correct?

15 A. Yes.

16 Q. And you knew, since the elevator was above
17 you, it couldn't go any higher, correct?

18 A. No.

19 Q. No, it couldn't go any higher, right?

20 A. No, I did -- was not aware that there was
21 another floor. I couldn't see it. I -- I -- I -- it
22 could not have gone higher.

23 Q. And you knew that -- Well, strike that.

24 You knew that no one in that elevator
25 could see below that car because of the floor in it,

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1 correct?

2 A. Yes.

3 Q. And you went outside to finish caulking the
4 bottom of that window frame because you did not think
5 that the window was going to come -- or the elevator car
6 was going to come back down, correct?

7 A. That's correct.

8 Q. Because you're saying that you were told that
9 the men in the elevator car were going to go up to the
10 next floor to take measurements, right?

11 A. Yeah. They were -- they were already up there
12 when I went -- stepped out into the -- out of the
13 building in order to do the caulking on the outside.

14 Q. And at the time you stepped out of the
15 building, you did not know how long it was going to take
16 for them to take those measurements, correct?

17 A. I did not know.

18 Q. And they did not know how long it was going to
19 take you to finish caulking -- strike that.

20 You did not tell them how long it was
21 going to take to finish caulking that window frame when
22 they were in the elevator, did you?

23 A. I did not.

24 Q. I gave you a statement that was written in
25 Spanish earlier by Miguel Bolaños. Do you remember

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1 So have we discussed all of the
2 conversations you had with anybody at that job site
3 before the elevator came up to the 12th floor?

4 A. Yes.

5 Q. As you sit here today, you can't recall
6 speaking to anyone else other than what we've -- Well,
7 strike that. I'm happy with that answer.

8 And have you told us everything you
9 remember about any conversation with people on that
10 elevator car before it went up to the next floor?

11 A. Yes.

12 Q. And have we talked about -- or do you remember
13 any other conversations with anyone from Neihi Glass,
14 including Cody or Marc Davis, before the accident
15 happened?

16 A. No.

17 Q. And that -- that's no, no other conversations
18 that you remember?

19 A. I don't recall any others.

20 Q. And between the time that you had your
21 conversation with the men on the elevator car and the
22 time that the elevator car came back down, you were by
23 yourself in that area on the 12th floor, correct?

24 A. No. And I -- I -- I -- I had my -- my
25 lanyard, my -- my cable, my safety rope on, and I was

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1 facing downwards, leaning outside, doing the caulking on
2 that frame.

3 Q. So your back would have been to where the
4 elevator car was?

5 A. Correct.

6 Q. So you wouldn't have been able to see whether
7 the elevator car was coming at you or not, correct?

8 A. No, not at all because I was leaning down,
9 facing downwards caulking the bottom part of that frame.

10 Q. And were you on -- were you leaning from your
11 feet or were you on your knees? How were you leaning?

12 A. I was sitting on the edge of the -- of the
13 frame, looking down in order to do the caulking.

14 Q. And you were sitting there knowing that an
15 elevator car was a floor above you, correct?

16 A. Yes. Yes, and I had my cable on, my safety
17 cable on.

18 Q. All right. And you were sitting there looking
19 down, knowing that you were sitting in the path of the
20 elevator car above you, correct?

21 A. Yes.

22 Q. All right. And while you were sitting there
23 at the -- you're sitting on the ledge, there was no one
24 else in that area. Marc Davis was somewhere else on the
25 12th floor, correct?

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1 A. It does not.

2 Q. There's a space between the elevator car and
3 the facing?

4 A. There is a space about maybe like this, about
5 12 inches between the -- the elevator and the -- and the
6 building. Because when the elevator gate opens, a plate
7 comes down that acts -- that -- to bridge that gap.

8 Q. Okay. So you're at the frame face down, not
9 looking at the elevator above you, with your right leg
10 out of the building, and the elevator comes down on you,
11 correct?

12 A. Yes, correct.

13 Q. And what part of your body did the elevator
14 car strike first?

15 A. It was like my spine, and I've got -- that's
16 how come I have two disks in my back shattered. But as
17 I was sitting down sort of like as if I was riding a
18 horse, you know, my groin got pushed down and it -- and
19 my leg burst.

20 Q. Now, you didn't break any bones in your leg,
21 right?

22 A. No. It was just -- it -- it was just the --
23 the flesh that burst open.

24 Q. All right. So it struck your back first, and
25 did that cause -- did that cause you to go out of the